



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

TRG

Docket No: 5097-00

28 November 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 16 June 2000.

2. The Board, consisting of Mr. Milner, Mr. Hogue and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 21 November 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve for three years on 17 March 1997 in the grade of MGYSGT (E-9). On 17 March 2000 a three month extension became effective. Petitioner states that he was honorably discharged on 25 June 2000. However, this must be in error because the expiration of his enlistment, as extended, would have been 16 June 2000. At that time he was credited with over 29 years of qualifying service for retirement.

d. Petitioner has informed the examiner that he drilled in July 2000 before it was discovered that he had been discharged.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps

has routinely recommended favorable action in similar cases in which an individual was eligible for reserve retirement and there is no explanation in the record why the individual was discharged and not retired, or administrative errors occurred which precluded retirement prior to discharge.

e. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it in a timely manner, or his request for retirement had been processed before discharge. Therefore, the Board concludes that Petitioner should be transferred to the Retired Reserve in the grade of MGYSGT. Since Petitioner drilled in July and given the requirements of the Uniform Retirement Date Act, the Board further concludes that Petitioner's enlistment should be extended for the minimum period of two months and that he should be transferred to the Retired Reserve effective 1 August 2000.

The Board also concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he extended his enlistment of 17 March 1997 for an additional period of two months and, on 1 August 2000, he transferred to the Retired Reserve in the grade of MGYSGT vice being discharged on 17 June 2000 or any other date.

b. That this Report of Proceedings be filed in Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


For W. DEAN PFEIFFER
Executive Director